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IN THE SUPREME COURT  
STATE OF ARIZONA

In the Matter of:

PETITION TO AMEND	)	
RULE 15.1(j) OF THE	)	Supreme Court No. R-16-_____
ARIZONA RULES OF	)	(expedited adoption requested)
CRIMINAL PROCEDURE	)	
_____	)	

Pursuant to Rule 28 of the Rules of the Arizona Supreme Court, David K. Byers, Administrative Director, Administrative Office of the Courts, respectfully petitions this Court to adopt the attached proposed amendment to Rule 15.1(j) of the Rules of Criminal Procedure on an emergency basis. The amendment is set forth in the accompanying Appendix A.

**I. Background and Purpose of the Proposed Rule Amendment.**

Laws 2016, Chapter 6, § 1 (“HB2001”) amended A.R.S. § 13-1425, unlawful distribution of images depicting states of nudity or specific sexual activities; classification; definitions. The bill was adopted with an emergency clause and

became effective on March 11, 2016. As its name suggests, the law prohibits the intentional unauthorized disclosure of an image of another person if the person is identifiable and is in a state of nudity or engaged in specific sexual acts; the person has a reasonable expectation of privacy, and the image is disclosed with the intent to harm, harass, intimidate, threaten or coerce the person. A.R.S. § 13-1425(A).

The proposed amendment set forth in Appendix A incorporates changes inspired by HB2001 into that portion of the disclosure rule that protects victims of child sexual exploitation from unnecessary exposure during the criminal prosecution. In the same vein, because the criminal act prohibited by HB2001 involves unauthorized display of an image of an identifiable victim, the prosecutor and defendant should follow the same process for handling that image during discovery.

**II. Pre-Petition Comments.** Petitioner has not circulated this proposal for pre-petition comments.

**III. Effective Date of the Proposed Rule Amendment.** Petitioner respectfully requests that the Supreme Court amend Rule 15.1(j) on an expedited basis with a public comment period to follow, as allowed by Supreme Court Rule 28(G), to make Rule 15.1 consistent with A.R.S. § 13-1425.

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RESPECTFULLY SUBMITTED this 19th day of April, 2016.

By /S/  
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**Appendix A**  
**(New language is underlined)**

**Arizona Rules of Criminal Procedure**  
**Rule 15.1. Disclosure by state.**

**(a) through (i)** [no changes]

**j. Reproduction or Release for Inspection of Items Prohibited by Title 13, Chapter 35.1 or Images that Gave Rise to a Prosecution Under A.R.S. § 13-1425.** Except as provided below, nothing in this rule shall be construed to require the prosecutor to reproduce or release for testing or examination any items listed in Rule 15.1(b)(5) if the production or possession of the items is otherwise prohibited by Title 13, Chapter 35.1 or is an image that is the subject of a prosecution under A.R.S. § 13-1425. The prosecutor shall make such items reasonably available for inspection with such conditions as are necessary to protect the rights of victims. Upon a substantial showing by a defendant that reproduction or release for examination or testing of any particular item is required for the effective investigation or presentation of a defense, such as for expert analysis, the court may require reproduction or release for examination or testing of that item, subject to such terms and conditions as are necessary to protect the rights of victims, to document the chain of custody, and to protect physical evidence. Reproduction of or release for examination and testing of such items shall be subject, in addition to such other terms and conditions as are ordered by the court in any particular case, to the following restrictions: (1) the item shall not be further reproduced or distributed except as allowed in the court's order; (2) the item shall only be viewed or possessed by the persons listed in the court's order; (3) the item shall not be possessed by or viewed by the defendant outside the direct supervision of defense counsel, advisory counsel, or defense expert; (4) the item must first be delivered to defense counsel or advisory counsel, or if expressly permitted by order of the court, to a specified defense expert; (5) defense counsel or advisory counsel shall be accountable to the court for any violation of the court order or this Rule; and (6) the item shall be returned to the prosecutor by a deadline ordered by the court.